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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,430	06/02/2005	Tim Neil	93422-46	3156
22463	7590	04/08/2009		
SMART & BIGGAR 438 UNIVERSITY AVENUE SUITE 1500, BOX 111 TORONTO, ON M5G 2K8 CANADA				
EXAMINER				
NGUYEN, DUSTIN				
ART UNIT		PAPER NUMBER		
2454				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,430

Applicant(s)

NEIL ET AL.

Examiner

DUSTIN NGUYEN

Art Unit

2454

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-14 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-14 and 17-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 2-14, 17-21 are presented for examination.

Response to Amendment

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blount et al. [US Patent No 6,070,184], in view of Thompson et al. [US Patent No 7,114,158].
5. As per claim 2, Blount discloses the invention as claimed including a method of enabling use of an application server application by a wireless communication device [Figures 1 and 2] comprising, at a transaction server [40, Figure 2; and col 6, lines 32-51]:

on receipt of a given message from said wireless communication device for said application on said application server [i.e. intercept module receives request from client] [Figure 4; col 10, lines 5-19], queuing said given message on a queue for said application [i.e. maintain a request queue] [230-232, Figure 4; and col 10, lines 5-67]; and

subsequent to said queuing, pushing said given message, and each message queued on said queue, toward a destination for said application of said application server [i.e. service thread 234 is processed for requests] [234, Figure 4; and col 10, lines 19-29].

Blount does not specifically disclose wherein said pushing comprises, for each message on said queue, dequeuing said each message from said queue and pushing said each message.

Thompson discloses wherein said pushing comprises, for each message on said queue, dequeuing said each message from said queue and pushing said each message [i.e. dequeue the request in FIFO] [Figure 3; col 8, lines 1-7; and col 13, lines 3-18].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Blount and Thompson because the teaching of Thompson would enable to provide a framework for server applications for increasing the number of simultaneous requests that can be handled, maximizing throughput while minimizing latency thus reducing contentions and improving cache coherency [Thompson, col 2, lines 10-15].

6. Claims 2-5, 8-11, 13-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Le Ran et al. [US Patent Application No 2004/0255048], in view of Barber et al. [US Patent No 6,654,487].

7. As per claim 2, Le Ran discloses the invention as claimed including a method of enabling use of an application server application by a wireless communication device [i.e. request resource on demand from the mobile device] [Figure 1; Abstract; paragraphs 0024, 0025 and 0182] comprising, at a transaction server [20, Figure 1; and 22, Figure 3]:

on receipt of a given message from said wireless communication device for said application on said application server [i.e. intercept a request for data resource submitted by the client] [102, Figure 6; and paragraphs 0025, 0031 and 0247], queuing said given message on a queue for said application [i.e. maintain a queue of requests for the fetching of remote resources] [paragraphs 0388 and 0545]; and

subsequent to said queuing, pushing said given message, and each message queued on said queue, toward a destination for said application of said application server [i.e. VFN receivers forward the request to the VFN transmitter] [Abstract; and paragraphs 0032, 0038, 0248 and 0268].

Le Ran does not specifically disclose wherein said pushing comprises, for each message on said queue, dequeuing said each message from said queue and pushing said each message.

Barber discloses wherein said pushing comprises, for each message on said queue, dequeuing said each message from said queue and pushing said each message [i.e. subprocess for dequeuing the queued message] [Figure 3A; col 4, lines 43-46; and col 10, lines 20-56].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Le Ran and Barber because the teaching of Barber would enable to deliver information to the destination in a consistent manner.

8. As per claim 3, Le Ran discloses prior to said dequeuing and pushing, acquiring a lock for said destination on said application server, said lock preventing other use of said destination [i.e. requesting a lock on resource] [paragraphs 0038 and 0039].

9. As per claim 4, Le Ran discloses after said dequeuing said each message from said queue and pushing said each message, releasing said lock for said destination on said application server [paragraphs 0371-0373].

10. As per claim 5, Le Ran discloses wherein messages on said queue are queued on a first in first out (FIFO) basis [paragraph 0544], and wherein a trailing message in said queue is not pushed until a message in said queue immediately preceding said trailing message is considered to have successfully reached said destination [i.e. retry fail transfer and transfer remain portion after fail transfer] [paragraphs 0421 and 0563].

11. As per claim 8, La Ran discloses timing a retry interval and, on expiry of said retry interval [i.e. retries fail transfer] [paragraphs 0421, 0452 and 0519]. La Ran does not specifically disclose for each message on said queue: dequeuing said each message from said queue and pushing said each message toward said destination for said application of said application server. Barber discloses for each message on said queue: dequeuing said each message from said queue and pushing said each message toward said destination for said application of said application server [Figure 3A; col 4, lines 43-46; and col 10, lines 20-56]. It

would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Le Ran and Barber because the teaching of Barber would enable to deliver information to the destination in a consistent manner.

12. As per claim 9, La Ran discloses wherein said destination is a Component Object Model (COM) interface, a Distributed Component Object Model (DCOM) interface, a Simple Object Access Protocol (SOAP) interface, a .NET interface, or a .NET Remoting interface [paragraph 0486].

13. As per claim 10, La Ran discloses wherein said acquiring a lock comprises sending a lock request to a remote lock server [i.e. lock or lease] [paragraphs 0013, 0327 and 0066].

14. As per claim 11, La Ran discloses wherein said each message is an extensible markup language (XML) package [paragraphs 0198, 0454].

15. As per claim 13, La Ran discloses receiving from said application server a message for said mobile communication device; and forwarding said application server message to said wireless communication device [i.e. return the requested information to the client] [paragraphs 0025, and 0296].

16. As per claim 14, La Ran discloses wherein said pushing said each message toward said destination for said application of said application server comprising sending said each message to a universal resource locator (URL) [paragraphs 0191, 0202, and 0211].

17. As per claims 17 and 18, they are rejected for similar reasons as stated above in claims 2 and 3.

18. As per claim 19, it is rejected for similar reasons as stated above in claim 5.

19. As per claim 21, it is rejected for similar reasons as stated above in claim 2.

20. Claims 6, 7 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Le Ran et al. [US Patent Application No 2004/0255048], in view of Barber et al. [US Patent No 6,654,487], and further in view of Mullis, II et al. [US Patent Application No 2004/0103171].

21. As per claim 6, Le Ran and Barber do not disclose if a particular message pushed toward said destination does not successfully reach said destination, ceasing said dequeuing and pushing and re-queuing said particular message on said queue. Mullis discloses if a particular message pushed toward said destination does not successfully reach said destination, ceasing said dequeuing and pushing and re-queuing said particular message on said queue [i.e. re-queued] [paragraphs 0011, 0020 and 0062]. It would have been obvious to a person skill in the art at the

time the invention was made to combine the teaching of Le Ran, Barber and Mullis because the teaching of Mullis would enable to recover data from failure.

22. As per claim 7, La Ran discloses on dequeuing said each message and prior to pushing said each message, logging said event [paragraphs 0191, 0192, 0214]. La Ran and Barber do not specifically disclose wherein said re-queuing said particular message comprises utilizing said log to identify messages to re-queue. Mullis discloses wherein said re-queuing said particular message comprises utilizing said log to identify messages to re-queue [i.e. recovery failure] [paragraphs 0011, and 0020]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Le Ran, Barber and Mullis because the teaching of Mullis would enable to provide a mechanism for failure recovering.

23. As per claim 20, it is rejected for similar reasons as stated above in claim 6.

24. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Le Ran et al. [US Patent Application No 2004/0255048], in view of Barber et al. [US Patent No 6,654,487], and further in view of Spicer et al. [US Patent Application No 2002/0144016].

25. As per claim 12, La Ran and Barber do not specifically disclose receiving a polling request from said application server, said polling request establishing a transaction; and dequeuing said each message from said queue and sending said each message toward said

destination for said application of said application server in the context of said transaction. Spicer discloses receiving a polling request from said application server, said polling request establishing a transaction; and dequeuing said each message from said queue and sending said each message toward said destination for said application of said application server in the context of said transaction [i.e. polling server] [Figure 1; and paragraphs 0024 and 0064]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Le Ran, Barber and Spicer because the teaching of Spicer would enable information to be polled to reduce communication overhead.

26. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Dustin Nguyen/
Primary Examiner, Art Unit 2454